



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes BOARD OF ZONING APPEALS

J. K. Lowman, Ward 2, Chairman
James A. Mills, Ward 3, Vice Chairman
Brad N. Leskoven, Ward 1
David Hunter, Ward 4
Ronald Clark, Ward 5
Bobby Van Buren, Ward 6
Justice Barber, Ward 7

Monday, April 27, 2015

6:00 PM

City Hall Council Chambers

Present: J. K. Lowman, Justice Barber, Brad N. Leskoven and David Hunter, and Bobby VanBuren

Absent: James Mills and Ronald Clark

Staff:

Rusty Roth, Development Services Manager
Brian Binzer – Director Development Services
Shelby Little, Planning Administrator
Daniel White, City Attorney
Ines Embler, Secretary to the Board

CALL TO ORDER:

Mr. Lowman called the April 27, 2015 meeting of the Board of Zoning Appeals to order at 6:03PM

MINUTES:

20150323 March 30, 2015 Board of Zoning Appeals Meeting Minutes

Review and Approval of the March 30, 2015 Board of Zoning Appeals Meeting Minutes.

Mr. Lowman made a motion, seconded by Mr. Leskoven that the March 30, 2015 Board of Zoning Appeals meeting minutes be approved. The Motion carried 5-0-0.

A motion was made by Board member Lowman, seconded by Board member Leskoven, that this Minutes be Approved and Finalized . The motion CARRIED by the following vote.

Absent: 2

Vote For: 5

VARIANCES:**20150201****V2015-14 [VARIANCE] SIDNEY P. WRIGHT, P.C. (STATE MUTUAL INSURANCE CO.)**

V2015-14 [VARIANCE] SIDNEY P. WRIGHT, P.C. (STATE MUTUAL INSURANCE CO.) requesting variances for property located in Land Lot 12110, District 16, Parcel 0350, 2nd Section, Marietta, Cobb County, Georgia and being known as 1097 Radar Circle. Variance to operate automobile sales on a parcel that is only 0.65 acres. Ward 7A.

A public meeting was held.

Ms. Ellen Smith, attorney for Holt, Ney, Zatzoff & Wasserman, LLP and representing the applicant, presented a request for a variance to operate automobile sales on a parcel that is only 0.65 acres in order to sell the lot to Marietta Truck Sales and re-open a used car lot. Mr. Larry Haysler, the prospective purchaser, also spoke and offered a history of his interest in the property. Ms. Smith clarified regarding item #4 on the letter dated April 27, 2015, stating that there shall be no outdoor storage. She explained that vehicles and trucks will be parked outside overnight and that outdoor storage refers to tires, equipment or any ancillary aspects of the business.

Ms. Barber stated that one of the proposed conditions was their willingness to limit the number of vehicles that are stored outside to 70 at any one time and asked that one of the parties approach the bench and show her on the map provided how exactly they proposed to do that. Mr. Haysler approached and explained that he counted the spaces and showed her on the map how he will be able to achieve that.

Ms. Barber asked that if the variance were granted, would he be amenable to refreshing the paint on the outside of the building immediately and Mr. Haysler replied that he would be willing to paint before he moves in.

There was no opposition to this variance.

The public hearing was closed.

A motion was made by Ms. Barber to grant the application with the following stipulations on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Van Buren. Mr. Leskoven opposed. The Motion carried 4-1-0

Stipulations:

- 1. A maximum inventory of 70 vehicles are offered for sale at the property at any given time.*
- 2. 5 striped parking spaces designated as customer parking will be located in front of the office located on the property.*
- 3. The storage barn and the carport currently located on the parcel will be removed before opening any used car sales business on the property.*
- 4. There will be no outside storage on the parcel other than the vehicles that are for sale.*
- 5. The building will have a refreshed coat of paint before opening for operation again.*

A motion was made by Board member Barber, seconded by Board member Van Buren, that this Variance be Approved as Stipulated. The motion CARRIED by the following vote.

Absent: 2

Vote For: 4

Vote Against: 1

20150243

V2015-17 [VARIANCE] JILL C. MUTIMER

V2015-17 [VARIANCE] JILL C. MUTIMER requesting variances for property located in Land Lot 1155, District 16, Parcel 0770, 2nd Section, Marietta, Cobb County, Georgia and being known as 283 Ridge Avenue. Variance to increase the maximum height of an accessory structure from 15 ft. to 20 ft. (setback required to be equal to height of the structure); variance to reduce the rear setback for an accessory structure to 9.3'. Ward 3A.

A public meeting was held.

Ms. Jill Mutimer, the applicant, presented a request for a Variance to increase the maximum height of an accessory structure from 15 ft. to 20 ft. (setback required to be equal to height of the structure) and a variance to reduce the rear setback for an accessory structure to 9.3'.

The architect she hired drew the garage plans to what he thought were in compliance with the zoning requirements but the City has concluded that according to the zoning requirements, since the two structures share a roof, that they are really one structure and therefore are not in compliance. The second issue is that her contractor built the garage on one corner of the back accidentally 9 inches over. She had no explanation for this, other than the contractor said it was an error.

Mr. Van Buren asked for clarification to her statement that she originally had it as two separate buildings or a space in between the two and Ms. Mutimer stated that it does have a space between the two buildings and added that he couldn't really tell from the angle of the picture he was looking at. She explained that there is a gap, but that the roof is connected in order to prevent rain and other damage from the elements.

Mr. Leskoven asked if her neighbors have been responsive in any way. Ms. Mutimer said that she spoke with her back neighbor and also to one on one side and as far as she knows, no one has a problem with it.

Mr. Van Buren asked which back neighbor, specifically, did she speak with and Ms. Mutimer replied that there is only one neighbor directly behind her, that the way the house is laid out, there is one house directly behind her property, covered by trees, and the other two off to the side are really the back of her two neighbors.

Mr. Hunter asked for verification that the last section is separated, but the roof is attached to that building. Ms. Mutimer confirmed it and stated that the shingles on the back side are also attached. She said there is about a 4 inch separation between the buildings.

Ms. Barber asked if the purpose for having the shingles going across the separated portion is solely esthetic or was there an additional consideration for that covering. Ms. Mutimer said that it was esthetic, but also necessary to prevent damage to the structure because according to her contractor and architect, the area of separation is so small that she can't get back in there to maintain it.

Ms. Barber asked if she's spoken with the fire department and Ms. Mutimer said that that is all taken care of. That they have a letter from the Fire Marshall saying that it is not necessary to sprinkler it because they are not within 20 feet of another structure.

Mr. Hunter asked how they missed the back by almost a foot and Ms. Mutimer did not know and stated that her contractor said he simply made a mistake.

Ms. Barber asked that if the variance were denied, her option would not be to simply separate the roof, because it is her position that if she were to simply separate the roof the integrity of the structure would be damaged within a number of years and so she would likely have to get rid of one of the garages. Ms. Mutimer said she would have to tear it down and start over.

There was no opposition to this variance.

The public hearing was closed.

A motion was made by Mr. Lowman to grant the application on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Ms. Barber. The Motion carried 5-0-0.

A motion was made by Board member Lowman, seconded by Board member Barber, that this Variance be Approved and Finalized . The motion CARRIED by the following vote.

Absent: 2

Vote For: 5

20150244

V2015-18 [VARIANCE] DAVID & ELENA KAY

V2015-18 [VARIANCE] DAVID & ELENA KAY requesting variances for property located in Land Lot 1146, District 16, Parcel 0460, 2nd Section, Marietta, Cobb County, Georgia and being known as 346 Church Street. Variance to reduce the minimum side yard setback from 10 ft. to 5 ft. along the northern property line; variance to reduce the minimum side yard setback for a carriage house from 20 ft. to 5 ft. along the southern property line. Variance to reduce the minimum additional lot area for a guest house from 5,000 s.f. to 3,720 s.f. Ward 4B.

A public meeting was held.

Mr. David Kay, the applicant, presented a request for a Variance to reduce the minimum side yard setback from 10 ft. to 5 ft. along the northern property line; variance to reduce the minimum side yard setback for a carriage house from 20 ft. to 5 ft. along the southern property line. Variance to reduce the minimum additional lot area for a guest house from 5,000 sf to 3,720 sf. He is requesting these variances due to the very narrow nature of the lot. He intends to tear down the house currently on the lot at the recommendation of their structural engineer and rebuilt it with the façade to be exactly the same, except that the height will be two stories.

Mr. Van Buren asked if the 5 foot variance on the north side is already within the requirement and Mr. Kay said that his neighbor, who is in the audience, thinks it's about 3 feet but that they would make it 5 foot.

Mr. Van Buren asked if that meant he would be making it narrower or if he would be moving it over and Mr. Kay said they would probably move it slightly to be 5 foot off the property line.

Mr. Van Buren asked about fire sprinklers being that the property is within 20 feet of another structure and Mr. Kay said that they would make sure to add fire sprinklers to accommodate the request of the fire department.

Ms. Barber asked if he had neighbors present to speak in support of his variance request. He said he didn't know if they were in support or not, but that his neighbors are in the audience. Mr. Lowman said he's assuming that they are in favor as they did not raise their hand in opposition when the question was asked and they nodded in agreement.

There was no opposition to this variance.

The public hearing was closed.

A motion was made by Mr. Hunter to grant the application on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Leskoven. The Motion carried 5-0-0.

A motion was made by Board member Hunter, seconded by Board member Leskoven, that this Variance be Approved and Finalized . The motion CARRIED by the following vote.

Absent: 2

Vote For: 5

20150245

V2015-19 [VARIANCE] RED HARE PROPERTIES, LLC

V2015-19 [VARIANCE] RED HARE PROPERTIES, LLC requesting a variance for property located in Land Lot 715, District 17, Parcel 0150, 2nd Section, Marietta, Cobb County, Georgia and being known as 1998 Delk Industrial Boulevard. Variance to allow the use of metal siding on the front and side of a building facing a roadway. Ward 1A.

A public meeting was held.

Mr. Roger Davis, the applicant, presented a request for a Variance to allow the use of metal siding on the front and side of a building facing a roadway with the intent to replicate a vintage industrial building.

Ms. Barber looked at the picture presented and asked if this would be done to both the larger structure to the left with the Red Hare logo as well as the small triangle over to the right. Mr. Davis said that the only metal part being considered is the new brew house structure, that the other part is just a sign.

There was no opposition to this variance.

The public hearing was closed.

A motion was made by Mr. Leskoven to grant the application on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Van Buren. The Motion carried 5-0-0.

A motion was made by Board member Leskoven, seconded by Board member Van Buren, that this Variance be Approved and Finalized. The motion CARRIED by the following vote.

Absent: 2

Vote For: 5

20150246

V2015-20 [VARIANCE] DALE YAKE (HENRY DARBY)

V2015-20 [VARIANCE] DALE YAKE (HENRY DARBY) requesting a variance for property located in Land Lot 1081, District 16, Parcel 0270, 2nd Section, Marietta, Cobb County, Georgia and being known as 513 Kent Terrace. Variance to increase the allowable building height from 35' to 44'8". Ward 4A.

A public meeting was held.

Mr. Kevin Moore, attorney for Moore, Ingram, Johnson & Steele, LLP and representing the applicant, presented a request for a Variance to increase the allowable building height from 35' to 44'8" due to the restraints caused by the topography of the lot.

Ms. Barber asked if he had any correspondence from the Home Owner's Association or neighbors or anyone specifically in support of the variance request. Mr. Moore stated that they did receive an email from Julianne Long and her husband Byron Long, who are adjacent neighbors expressing approval as well as discussions with the HOA.

Ms. Barber asked if he had a copy of the architect's letter that went out to the neighbors. Mr. Moore provided her a copy and said that it was previously submitted to the City's Planning and Zoning department.

Ms. Barber asked if one of the two neighbors in the audience is the neighbor who approved the variance in the email and Mr. Moore said that was correct.

Ms. Barber asked which side was the neighbor on and the owner stood and said that standing directly facing the lot, it would be the neighbor to the right, which is the only neighbor that would be affected due to the topography issues of the lot.

There was no opposition to this variance.

The public hearing was closed.

A motion was made by Mr. Hunter to grant the application for the criteria being exceptional or extraordinary circumstances or conditions that are applicable to the development of the site and do not generally apply to the sites in the same zoning district on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Lowman. The Motion carried 5-0-0.

A motion was made by Board member Hunter, seconded by Board member Lowman, that this Variance be Approved and Finalized . The motion CARRIED by the following vote.

Absent: 2

Vote For: 5

OTHER BUSINESS:

20150321 Board of Zoning Appeals - Election of Chairman

Election of Chairman to serve for one year from May 2015 to April 2016.

Chairman Lowman opened the floor for nominations for the position of Chairman for the term of May 2015 to April 2016.

Chairman Lowman nominated Mr. Mills as Chairman. Hearing no other nominations, the nominations were closed.

Chairman Lowman made a motion to elect Mr. Mills, seconded by Mr. Leskoven. The motion carried 5-0-0.

A motion was made by Board member Lowman, seconded by Board member Leskoven, that this Motion be approved . The motion CARRIED by the following vote.

Absent: 2

Vote For: 5

20150322 Board of Zoning Appeals - Election of Vice Chairman

Election of Vice Chairman to serve for one year from May 2015 to April 2016.

Chairman Lowman opened the floor for nominations for the position of Vice Chairman for the term of May 2015 to April 2016.

Mr. Hunter nominated Mr. Lowman as Vice Chairman. Hearing no other nominations, the nominations were closed.

Mr. Hunter made a motion to elect Mr. Lowman, seconded by Mr. Leskoven. The motion carried 4-0-1. Mr. Lowman abstained.

A motion was made by Board member Hunter, seconded by Board member Leskoven, that this Motion be approved . The motion CARRIED by the following vote.

Absent: 2

Vote For: 4

Abstain: 1

ADJOURNMENT:

The April 27, 2015 meeting of the Board of Zoning Appeals was adjourned at 6:54PM.



J.K. LOWMAN, CHAIRMAN



INES EMBLER, SECRETARY